

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-IVth
Civil Court, Bhojpur (Ara), Bihar. 802301.
Session Trial No. 278/2024
Arising out of Udwant Nagar P.S. Case, No. 361/2023

State of Bihar**..... Prosecution****Versus****1. Vishal Kumar, S/o-Dhanji Prasad****{Resident of Vill-Masadh Tola, P.S-Udwantnagar(G), Dist-Bhojpur}****..... Accused Person.**

Name of Police Station: Udwant Nagar

First Information Report No : 361/2023

FIR Under Sections: 304(B)/34 of the Indian Penal Code.

Cognizance Under Sections:- 304(B)/34 of the Indian Penal Code.

Committed on: 14.05.2024

District: - Bhojpur

Charges framed under Sections:- 304(B)/34 of the Indian Penal Code.

Ld. Counsel for the State : Sri Ram Prasad Ram, Ld. A.P.P.

Ld. Counsel for the Accused person : Sri Surendra Pratap Singh & ors.,
Ld. Advocate(s)

Date of Judgment:- 13/03/2026**Present: Manoranjan Kumar Jha,**
Additional Sessions Judge - IVth,
Bhojpur at Ara.

J U D G M E N T

- 1.** In the present Session Trial, arising out of **Udwant Nagar** P.S. Case No. **361 of 2023**, the aforementioned accused person namely, **Vishal Kumar** is charged for offences punishable under sections 304(B)/34 of the Indian Penal Code, 1860.
- 2.** The prosecution case, as unfolded from the FIR and the detailed fardbayan of the informant Urmila Devi, is that the informant married her daughter Anjali Kumari with the accused Vishal Kumar and after marriage the Anjali reached in her sasural and after some days the accused along with others started demanding a four wheeler vehicle and on its non fulfillment, they also started torturing her. It is further alleged that on 19.08.2023 at about 03:00 AM, Dhanji Prasad informed them through mobile phone that his daughter's condition is not good and requested to come and see her. Thereafter, the informant and others reached in Anjali's sasural at about 06:30 A.M., then the informant saw that her daughter's dead body was lying in the courtyard and her in-laws were not present and thereafter when they inquired from the nearby people then they came to know that the accused have assaulted and then killed her daughter. Thereafter the police on information reached there and took the dead body to the Sadar Hospital Ara for postmortem.
- 3.** On the basis of the fardbayan of the informant-Urmila Devi, the Police registered FIR bearing number Udwant Nagar P.S. Case No. 361 of 2023 against the above-named sole accused person Vishal Kumar.

4. Upon completion of a thorough investigation, the Investigating Officer, Sub-Inspector, found the allegations against the accused to be substantiated by the evidence collected. Consequently, Charge Sheet was submitted before the Court under Sections 304(B)/34 of the Indian Penal Code, 1860.
5. Following the submission of the Charge Sheet by the Investigating Officer, the learned Chief Judicial Magistrate, Bhojpur at Ara, perused the investigative materials and case diary in Udwantnagar P.S. Case No. 361/2023. On 29.04.2024, being satisfied that a *prima facie* case was made out against the accused, Vishal Kumar, the learned Magistrate took formal cognizance of the offenses under Sections 304(B), 34 of the IPC. As the offenses, particularly under Sections 304(B), 34 of the IPC, are exclusively triable by the Court of Sessions, the case was subsequently committed for trial on 14.05.2024. The records were then transferred to this Court after register as Session Trial Case No. 278/2024 for further proceedings according to the law.
6. The accused person denied any involvement in the alleged criminal acts and thus claimed to be tried in accordance with the law. On 05.06.2024, Charges were framed by this Court under sections 304(B), 34 of the Indian Penal Code, 1860. Upon framing of the charge, the file was posted for recording prosecution evidence, oral as well as documentary. From bare perusal of case record as well as charge-sheet, it transpires that the prosecution has examined altogether 5 (Five) witnesses.
7. After closure of prosecution evidence, the statement of accused person was recorded under section 313 of Cr.P.C on 28.11.2024. Accused denied all the incriminating circumstances put against him except the factum of marriage with the deceased. He pleaded his innocence and further pleaded his false implication. Thereafter, the record was fixed for defense evidence and the accused opted to lead evidence in his defence and examined two witnesses to prove his defence and innocence.

8. Points for determination

- I. Whether the accused person is guilty of the offence 304(B)/34 of the Indian Penal Code, 1860 ?
- II. Whether the accused person is guilty of the offence 498 A and 306 of the Indian Penal Code, 1860 ?

Evidence

9. In support of its case the prosecution has examined 5(Five) witnesses namely PW-1 Aklu Mahto, PW-2 Urmila Devi and PW-3 Rakesh Kumar, PW-4 Aditi Kumari, the investigating officer (hereinafter called as I.O.), PW-5 Dr. Kripa Shankar Chaubey. Exhibits, P-1-Charge-sheet, P-2 Signature of P.W 5 Dr. Kripa Shankar Chaubey on postmortem report.
10. **P.W-1: Aklu Mahto (Father of the Deceased)** In his examination-in-chief on 16/07/2024, PW-1 deposed that he married his daughter namely Anjali Kumari (now deceased) with Vishal Kumar in the year 2023 and given articles of amounting Rs 5 lacs to the groom as gift. The witness further deposed that after marriage, his daughter Anjali went to her matrimonial home and within 2 months and 7 days, the alleged

incident took place with his daughter. The witness further deposed that the accused altogether killed his daughter by strangulation to neck in connection with demand of Apache Motorcycle as dowry which he could not fulfil. The witness further deposed that after marriage, Kiran Devi and Dhanji Prasad said that this witness had no one except daughter and he should give car to the in-laws after selling his boat and then only the accused will keep his daughter in good condition and other accused said that unless they get car till then they will neither send his daughter to her Maika nor made her talk with them. The witness further deposed that on the date of alleged occurrence at around 03:00 AM in the morning (Bhor) his Samadhi Dhanji Prasad called him and informed about the bad condition of his daughter Anjali which made them suspicious and then he alongwith his nephew namely Pappu, Mukesh and Rakesh went to Masadh Tola (the matrimonial house of the deceased) by two motorcycles and they reached there at about 05:00 AM in the morning and seen the dead body of his daughter lying in courtyard covered with clothes. The witness further deposed that thereafter they went inside the house but could not find any cloth or rope, etc attached with the fan and thereafter the police reached at the spot who received information from one Dheeraj Prasad as to the alleged occurrence. The witness further deposed that the accused have killed his daughter because of non-fulfilment of their demand of a four-wheeler vehicle as dowry. The witness identified the accused present in the court.

In his cross-examinations, the witness further stated that he resides at village Balwan Tola in Chhapara District and Doriganj Police Station is situated at a distance of One KM from his house. The witness further stated that though he visited the matrimonial house of his daughter Five times but he cannot say the time and date whenever he visited Masadh Tola. The witness admitted the fact that there was love affair between his daughter and accused Vishal prior to the marriage and he married his daughter with accused inspite of knowing the said fact. The witness further stated that he had no knowledge about the family status or earning number of family members of the accused/ accused family. The witness further stated that he had no knowledge about the neighbours of the accused and admitted the fact that there is no any witness of Masadh tola in this case. The witness further stated that he had no talk as to alleged incident with anyone of Masadh Tola and for the first time, the father of the accused Dhanji Prasad informed him about the incident. The witness denied the fact that the police prepared inquest report in his presence at the matrimonial house of his daughter and shown ignorance as to the fact that the police found the death of his daughter was caused by hanging herself with fan. The witness further deposed that the accused were not keeping his daughter in good condition but he did not file any case prior to the present one. The witness admitted the fact that there is no any other witness of the fact that the accused were committing cruelty in connection with demand of dowry and he is deposing first time in the court and none had taken his statement prior to this one. The witness further stated that he neither say the date and time when the accused demanded four-wheeler vehicle from him and also nor say the date and time of demand of motorcycle by the accused. The witness denied the fact that his daughter was a moody

girl and used to visit outside and when the accused opposed then his daughter committed suicide by hanging herself and he has made false allegation against the accused.

11. P.W-2: Urmila Devi, the mother of the deceased, in her examination-in-chief recorded on 30.07.2024, PW-2 deposed that they married her daughter with the accused Vishal on 12.06.2023 and also gifted things amounting Rs 5 lacs in the marriage. The witness further deposed that her daughter went to her matrimonial home and remained there for two months. The witness further deposed that her daughter Anjali never said anything but the accused used to demand a four-wheeler vehicle as gift but they have not given to the accused. The witness further deposed that all the accused committed murder of her daughter by strangulation. The witness further deposed that Dhanji Prasad informed them through telephone about bad condition of her daughter at around 03:00 AM in the morning and thereafter her husband and others went there to see her daughter. The witness further deposed that when her husband and others went there then they saw her daughter dead and lying in the courtyard and the accused were absent from the house. The witness claims that she also went there and saw the dead body of her daughter. Thereafter upon their call, the police came and took the dead body of her daughter to hospital. The witness identified the accused and deposed that the accused murdered her daughter in connection with demand of dowry.

In her cross-examinations, the witness stated that she had given several things as gift in the marriage and she never went to sasural of her daughter. The witness further admitted that there was love Vishal and her daughter prior to marriage but they married he daughter happily with the accused. The witness deposed that she cannot say the exact date, time and year when the accused demanded dowry from them. The witness admitted that they have never filed any case in connection with demand of dowry, prior to this case. The witness further deposed that though there is no witness of demand of dowry but she kept the recording and the said recording was never given to the police. The witness further deposed that in that recording, there is conversation between his brother Kali Charan and Dhanji Prasad. The witness further deposed that there is no witness in this case from the locality of her daughter's matrimonial side. The witness further admitted that she was not told by anyone as to cruelty done to her daughter in connection with demand of dowry.

12.PW-3- Rakesh Kumar (cousin brother of the deceased) has deposed that his cousin sister Anjali Kumari was married to Vishal Kumar on 12.06.2023 and at the time of her marriage, gifts worth about ₹5 lakhs were given by his uncle. After the marriage, she went to her matrimonial home at Masadh Tola, under Gajarajganj Police Station. The witness further deposed that after reaching her matrimonial home, Vishal and his father Dhananjay Prasad started demanding an Apache motorcycle as dowry while his uncle is a boatman and is poor; his boat had also sunk, so he could not fulfil the demand and then Since his uncle has only one daughter and no son, the accused persons then started demanding a four-wheeler. It is further deposed that when the demand was not fulfilled, the accused persons did not even allow the girl to talk on the

phone and later, all the accused persons killed Anjali Kumari. The witness identified the accused Vishal Kumar present in court.

In his Cross-examinations, the witness deposed that no incident took place in his presence. Further deposed that the demand for motorcycle or four-wheeler was never made in his presence. The witness admitted that marriage between Vishal and Anjali was a love marriage and he has no knowledge whether any case was filed regarding the alleged dowry demand. The witness further deposed that he is giving evidence in court for the first time. The witness further deposed that Dhanjee Prasad had informed his uncle over the phone that his daughter was unwell and asked him to come. The witness further deposed that though he cannot tell the distance between his village and Anjali's matrimonial home but he had visited her matrimonial home once before marriage and he went to her matrimonial home again after her death. The witness further deposed that neither he had seen anyone committing the murder nor had knowledge whether there are any witnesses from the matrimonial side or nearby area in this case. The witness further deposed that the case was registered at Ara Sadar Hospital but denied the fact that he has given false evidence at the instance of his uncle or that the incident narrated by him never happened.

13.PW-4 – Aditi Kumari (the Investigating Officer) has deposed that on 19.08.2023, she was posted as Sub-Inspector at Gajarajganj OP. and on that day Case No. 361/2023 under Section 304B/34 IPC was registered by SI Roshan Kumar and then she took over the investigation on the same day. The witness further deposed that she recorded the FIR and inquest report of the deceased Anjali Kumari and made entries in the case diary. The witness further deposed that then she inspected the place of occurrence which is at Masadh village, and also recorded the statement of the deceased's mother Urmila Devi and brother Rakesh Kumar and conducted searches. The witness further deposed that then she went to Sadar Hospital and recorded the statement of the deceased's father Akalu Mahto. After post-mortem, the body was handed over to the family. The witness further deposed that on 20.09.2023, she received the post-mortem report and after completing investigation, submitted charge-sheet No. 532/2023 under Section 304B/34 IPC on 28.10.2023. It is marked as **Exhibit-1**. The witness further deposed that she could not find any criminal antecedent of accused Vishal and all witnesses in their statements supported the case.

In her cross-examinations, the witness deposed that the informant is a resident of Baluan Tola, District Chhapra and the matrimonial home of the deceased girl falls under Gajarajganj OP. The witness further deposed that she never visited the informant's village during investigation and even not issued any notice to the informant or his family, though they used to come to the police station. The witness further deposed that she does not know how many days after investigation began, the FIR was submitted to court. The witness further deposed that she recorded statements of all witnesses in a single day. The witness further deposed that she first recorded statements in my personal diary and later typed them and admitted that the said diary is not a government document. The

witness further deposed that the statements of witnesses were recorded on 19.08.2023. The witness further deposed that No material evidence was found at the place of occurrence indicating that the incident took place there. The witness further deposed that statements of neighbour witnesses were not recorded because they were unwilling but she did not mention this in the case diary. The witness further deposed that The father of the deceased did not state earlier that the accused strangled and killed his daughter. The witness further deposed that the witness Akalu Mahto also did not state earlier that the accused demanded a motorcycle which he could not fulfil and then the accused told him to give a four-wheeler vehicle as dowry. The witness further admitted the fact that Akalu Mahto told her that the accused were demanding a four-wheeler motorcycle before marriage or coercion after marriage and his daughter will not be permitted to talk with them or go to her maika unless they fulfil the demand. The witness further deposed that several facts stated later in court were not mentioned in his police statement. The witness further deposed that no witness complained about dowry demand prior to the incident and no suicide note was handed over to her during investigation. The witness further deposed that during her investigation no evidence was found showing that the deceased had communicated any harassment to her family. The witness denied the fact that she had done faulty investigation.

14. P.W-5: Dr. Kripa Shankar Choubey, In his examination-in-chief, PW-5, the Medical Officer who conducted postmortem of the deceased, deposed that on 19-08-2023 he was posted at Sadar Hospital Ara, and on that day he conducted postmortem examination of dead body of Anjali Kumari at 09:35AM on 19-08-2023 and found following ante mortem findings:

A. External Examination-

a. Rigor Mortise Present, eyes mouth closed, ligature mark present on front of neck of left side of neck. Abrasion of size 1/3"X1/4" to skin deep lateral of right in ligature mark.

On dissection of neck- Ligature mark present. Fracture of hyoid bone present. Groups of ligature mark glistening of white mark.

On dissection of skull- Brain intact and congested.

On dissection of chest- Right ventricular contain blood. Left ventricular empty. Lungs intact and congested.

On dissection of abdomen- Liver, spleen and kidney intact and congested.

Cause of death- Hanging leading to asphyxia and death.

Time elapse as death- 18-24 hours of postmortem examination.

The witness deposed that the Postmortem report is prepared in his pen and signature, marked as **exhibit-2**.

In his cross-examinations, the witness deposed that this is not a case of forcefully strangulation to the deceased and the mark of abrasion may also occur from pulling forcefully on the body with a cloth or rope. The

witness further deposed that the deceased might have died between 18 hrs to 24 hrs prior to conducting postmortem.

15. On behalf of defence, two witnesses were examined.

DW-1 Dharmendra Yadav deposed that Dhanji Prasad is his neighbour and Vishal married Anjali in a love marriage as Vishal had prior relations with Anjali's family. Further deposed that Anjali was the only child of her parents and had married against their wishes and she lived in her matrimonial home for about two months while her parents visited only once. The witness further deposed that the accused family treated her with respect and Anjali remained unhappy because she married against her parents' wishes. The witness further deposed that on the day of occurrence (summer), her husband Vishal slept on the roof due to heat and taking advantage, Anjali hanged herself from a rod. The witness further deposed that her father-in-law informed her family at Maika. A letter (suicide note) was found in her room and police took its photocopy. The witness identified the handwriting and signature of Anjali on suicide note and the said letter was marked as **Exhibit-A**.

In his Cross-examinations, the witness admitted that he was not present at the time of occurrence as he came the next morning and he had also no personal conversation with Anjali. The witness further deposed that he is not a handwriting expert but the said letter (suicide Note) was recovered from the room of Anjali. The witness denied the fact that he had deposed falsely to save the accused.

DW-2 Lal Babu Yadav deposed that he knows Dhanji Prasad as his house is near to his house. Further deposed that Vishal married Anjali in a love marriage and the father of deceased was unhappy and after marriage, her parents neither visited nor spoke to her. The witness further deposed that she (deceased) was respected in her matrimonial home but went into depression due to lack of contact with her parents and at round 15 August, when her husband went to sleep on roof, she committed suicide by writing a letter. The witness further deposed that on his advice, Vishal's father informed the girl's family and there was no dowry transaction ever took place.

In his cross-examinations, the witness further deposed that the alleged suicide note was hidden inside a pillow cover and later handed to police by the family of the accused. The witness further deposed that the accused never demanded any dowry and denied the fact that he has made false statement in the court.

Analysis of Evidence

16. Learned counsel for the accused person submits that this is a case of virtually no evidence against the accused person inasmuch as the testimony of the witnesses are not reliable and there is neither any credible evidence to link the accused with the alleged crime nor the motive is established. It is further urged that the witnesses are the family members of the deceased and are interested witnesses and as such it is not reliable. Further the police had not found any incriminating article or evidence from the place of occurrence. Further submitted that the marriage was a love marriage and the deceased was mentally disturbed

due to strained parental relations and therefore, she committed suicide voluntarily and later on a suicide note was recovered indicating mental trauma. Further submitted that the deceased had committed suicide voluntarily which reflects from the Ext. A. It is submitted that the prosecution not only failed to establish its case but also failed to bring on record any reliable evidence.

17. Learned APP, on the other hand, has supported his case on the ground that the witnesses have supported the case and it is admitted that the deceased died within 7 years of her marriage at her matrimonial home and under unnatural circumstances. Further submitted that the witnesses have admitted the demand of dowry and torture and in such situation presumption under section 113 B of Indian evidence act comes into picture and the defence failed to rebut the same. Therefore, it is prayed that the evidence produced on his behalf are sufficient to establish the case and the charge as framed.

18. Before proceeding further, it is pertinent to mention the legal framework of Section **304 B IPC i.e. Dowry Death**.

19. As held in **Kans Raj v. State of Punjab**, the following ingredients must be established:

- i. Death within 7 years of marriage
- ii. Death under unnatural circumstances
- iii. Cruelty or harassment
- iv. Such cruelty must be for dowry and
- v. It must be soon before death

Further, in **Bajnath v. State of Madhya Pradesh**, it was held that “The prosecution must establish a proximate and live link between cruelty and death.”

20. To support of its case, the prosecution has examined 5 witnesses while to deny the case, the defence has also examined two witnesses and marked exhibit the Suicide Note.

21. Further, the parties neither disputes the marriage nor the factum of death of the deceased and the fact of marriage of the deceased with the accused within seven years is also not disputed.

22. Further, to establish the unnatural death of the deceased, the prosecution produced Medical Evidence as PW-5. PW-5 Dr. Kripa Shankar Chaubey conducted the postmortem and found:

Ligature mark on neck

Fracture of hyoid bone

and the Cause of death is **Hanging leading to asphyxia**

The witness (PW5) has opined that there is no evidence of forcible strangulation and injury consistent with ligature hanging and thereby the witness the Death is suicidal. Such medical findings definitely categorically ruled out homicidal strangulation and thus the death is suicidal.

23. PW-1 – Aklu Mahto (Father) is a crucial witness who has stated that at the time of marriage, they given articles of ₹5 lakhs. Further stated that the accused, after some point of marriage, started demanding for

motorcycle and later car and on its non-fulfilment by them, the accused tortured his daughter and restricted her communication with them. The witness also stated that upon information, when they reached at the matrimonial home of his daughter, found dead body lying in courtyard and the accused were absconding. The witness though admitted no specific dates of demand either for the motorcycle or for the car and also he had not filed prior complaint but admitted love marriage. Though the defence point out some improvements in his testimony but despite inconsistencies, his testimony cannot be discarded entirely as it establishes persistent demand and harassment done to the deceased.

24.PW-2 – Urmila Devi (Mother of the deceased and informant of this case) has in her depositions confirms dowry demand made by the accused and on its non-fulfilment her daughter was continuously harassed. The witness also confirms suspicious call at 3 AM and later found dead body in matrimonial home. The witness further admitted that she never visited her daughter's matrimonial home and she had even no direct knowledge as to harassment. The witness further admitted that she had not made any complaint against the accused prior to this one. Though the testimony of this witness is partially hearsay but it corroborates PW-1 and establishes continuity of harassment.

25. PW-3 (Rakesh Kumar – Cousin brother) in his depositions confirms demand of motorcycle and car and supports the fact that the victim/deceased was not allowed to communicate with her family and the witness highlighted the economic pressure created by the accused upon them. The witness though admitted that neither he seen the incident personally nor any demand was made in his presence by the accused but it supports the Pattern of harassment and family's inability to meet demands.

26.PW-4 is the Investigating Officer and in her investigation admittedly she could not found any material evidence of strangulation and even she did not record the statements of neighbour witnesses but admitted the fact that the death occurred in matrimonial home within 2 months of marriage. The witness further accepted that the witnesses have made Improvements in their court testimony and as such it was pointed out by the defence's that her investigation is defective. However, as per settled law, defective investigation does not necessarily demolish prosecution case if core facts are proved or substantive evidence exists.

27.DW-1 & DW-2 are admittedly not the eyewitnesses of the case but supports the love marriage between the accused and deceased. The witnesses further admits the fact that the deceased was unhappy due to parental disapproval and claims as to suicide note was found from the place of occurrence. These witnesses appears to be interested witnesses (neighbours of accused). Further their testimony though creates doubt about homicide but it does not negate the cruelty. The defence version is probable but not convincing enough to completely negate the prosecution case.

28. Considering the materials available on record and the testimonies of the witness, it reflects that the witnesses produced on behalf of the prosecution has corroborated the fact that the deceased was married with

the accused and the deceased, within two months of her marriage, committed suicide. Further the father of the deceased (PW1) has though supported the fact of demand made by the accused but categorically stated that there is no any other witness of the fact that the accused were committing cruelty in connection with demand of dowry and also he neither say the date and time when the accused demanded four-wheeler vehicle from him and also nor say the date and time of demand of motorcycle by the accused. The informant/ mother of the deceased (PW2) has though supported the factum of demand made by the accused but specifically stated that she cannot say the exact date, time and year when the accused demanded dowry from them. The witness (PW 2) further admitted that she was not told by anyone as to cruelty done to her daughter in connection with demand of dowry. Further PW 3 has though corroborated the factum of demand made by the accused but admittedly he is not an eye witness of any of the alleged occurrence except had seen the dead body of the deceased lying in the matrimonial home when the reached there upon information.

- 29.** Therefore, the prosecution though able to establish the marriage and unnatural death of the victim within seven years of marriage and the demand made by the accused but completely failed to bring on record any reliable evidence to establish the fact that the deceased had suffered cruelty or harassment by the accused in connection with the demand of dowry and such cruelty or harassment was done by the accused “soon before her death” and as such the prosecution had not succeeded to establish any proximate link between death of the deceased with the alleged demand made soon before the death.
- 30.** Further, the medical evidence also categorically establishes the fact that the deceased died due to hanging leading to asphyxia and thereby it completely ruled out homicidal strangulation and proved the death as suicidal. This finding though completely weakens the case of the prosecution for Section 304B IPC i.e. dowry death by unnatural causes involving cruelty soon before death leading to death otherwise than normal circumstances but not inconsistent with the link of with dowry demand in a strict sense.
- 31.** In the case in hand where the prosecution failed to establish clear evidence of immediate harassment before death and also lacking independent corroboration and admittedly there is material improvements in testimonies as such this court finds that the prosecution failed to establish the case under Section 304B IPC beyond any reasonable doubt.
- 32.** The defence produced and relied upon suicide note (Exhibit-A). Though the veracity of this document has been objected by the prosecution but the defence made its reliance on it. This court has gone through the content of suicide note. On its perusal it reflects that the accused Vishal had left the deceased in the state of aloofness and isolation and though there is mentioning of no specific reason but it shows that the deceased was under mental trauma due to conduct of her husband. As such it does not exonerate the accused rather, it strengthens the fact that the deceased was under continuous mental trauma and harassment by the conducts of the accused husband. Further, the parents' testimonies (PW-1, PW-2) consistently mention that the girl was not allowed to speak to them and was under pressure. Even in a love marriage, the demand for

gifts can constitute cruelty. The isolation of the girl from her Maika, as admitted by all witnesses, establishes mental cruelty.

33.Admittedly, the evidence as produced by the prosecution and suicide note by the defence clearly establishes the offence of cruelty or harassment caused to the deceased and thus the foundation for the presumption under Section 113-A of the Evidence Act exists. Further, there is no evidence led by the defence to rebut the presumption.

34.Section 113-A of the Evidence Act, provides for presumption as to abetment of suicide by a married woman within seven years of marriage, by her husband or any of his relative.

Section 113-A reads thus: "When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband".

Further, the Explanation added to Section 113-A of the Evidence Act clearly provides that 'cruelty' shall have the same meaning as in Section 498-A IPC.

35.Considering first the offence under Section 498-A IPC, this Court noted the consistency in evidence of witnesses who are related to the deceased and the suicide note relied by the defence. Though the defence claims absence of any independent witness to support the case but the Court believes that most often the offence of subjecting the married woman to cruelty is committed within the boundaries of the house which in itself diminishes the chances of availability of any independent witness.

36. Further it is also law of the land that "the evidentiary value of the close relatives/interested witness is not liable to be rejected on the ground of being a relative of the deceased. Law does not disqualify the relatives to be produced as a witness though they may be interested witness."

37.This Court is of opinion that the witnesses (family members) though related to the deceased, were natural witnesses. Their evidence is consistent without any major contradiction and the content of the suicide note also corroborates the fact that the victim/ deceased was under grave mental trauma which inspires confidence of the court. Moreover, the defence's own witnesses (DW-1, DW-2) admit the deceased was "unhappy" and "depressed" in her matrimonial home.

38.Thus, from the evidences of the witnesses, this Court finds that the deceased was harassed by her husband and was under grave mental trauma. The Court finds that the prosecution was successful in proving the charge of cruelty under Explanation (b) of Section 498-A IPC.

39.Now, the question that fell for consideration is that the prosecution having successfully established the charge of cruelty as laid down in Explanation (b) of Section 498-A IPC and also the fact that the deceased committed suicide by hanging herself within seven years of her marriage, whether the accused could also be held guilty for the offence punishable under Section 306 IPC with the aid of Section 113-A of the Evidence Act.

40.In this regard, the law propounded by Hon'ble Court in Gurcharan Singh v. State of Punjab is that a continuous harassment may amount to

abetment and direct instigation is not always necessary. This fact also got support from the mandate of law as propounded in the case of **Madan Mohan Singh v. State of Gujarat** wherein the Hon'ble court held that Suicide note reflecting mental harassment can form basis of conviction under Section 306 IPC.

41. Though the prosecution did not bring on record any direct evidence to establish that the accused abetted deceased into committing suicide but taking note of the law propounded by the Hon'ble Court in **Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618**, wherein the Court concluded that "...to attract the applicability of Section 113-A of the Evidence Act, **three conditions** are required to be fulfilled: (i) the woman has committed suicide; (ii) such suicide has been committed within a period of seven years from the date of her marriage; (iii) the accused had subjected her to cruelty."
42. Considering the law as aforesaid and the evidences available on record, the court is of the firm opinion that in this case, all the three conditions stood fulfilled. The deceased committed suicide within a period of seven years from the date of her marriage and accused had subjected her to cruelty and thus the prosecution has also succeeded in proving the charge of abetment of Suicide under Section 306 IPC.
43. Therefore, in the case in hand, the accused Vishal is though facing charge under section 304 B IPC but due to insufficient evidence this court find it just and proper to acquit him. Further this court finds sufficient evidence to convict the accused Vishal Kumar under Section 498 A IPC and Section 306 IPC for which the accused was not charged.
44. In this regard, it becomes pertinent to mention here Section 222(1) which lays down that when a person is charged with an offence consisting of several particulars and combination of only some of the particulars constituting a minor offence is proved then he can be convicted of the minor offence with which he may not have been charged. Section 222(2) lays down that when a person is charged with an offence but the facts proved constitute a minor offence then he can be convicted of the minor offence despite the fact that he may not have been charged with that offence.
45. Further, Hon'ble apex Court in **Dalbir Singh vs. State of U.P. [2004 (5) SCC 334]**, a three Judges' Bench considered the provisions of Section 222 and 464 of the Code and observed that "Sub-section (1) of Section 222 lays down that when a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it. Subsection (2) of the same section lays down that when a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it. Section 222 CrPC is in the nature of a general provision which empowers the court to convict for a minor offence even though charge has been framed for a major offence. Illustrations (a) and (b) to the said section also make the position clear. However, there is a separate chapter in the Code of Criminal Procedure, namely, Chapter XXXV which deals with irregular proceedings and their effect. This chapter enumerates various kinds of irregularities which have the effect of either vitiating or not vitiating the proceedings. Section 464 of

the Code deals with the effect of omission to frame, or absence of, or error in, charge. Sub-section (1) of this section provides that no finding, sentence or order by a court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby. This clearly shows that any error, omission or irregularity in the charge including any misjoinder of charges shall not result in invalidating the conviction or order of a competent court unless the appellate or revisional court comes to the conclusion that a failure of justice has in fact been occasioned thereby.”

46. Therefore, in the light of aforesaid law propounded by the Hon’ble apex Court, I am of the considered opinion that the accused has not been prejudiced of the fact that he was convicted for the offence of which he is not charge for the reasons Section 306 IPC and Section 498 A IPC are the minor offence of Section 304 B IPC within the meaning of Section 222 (2) of Cr.P.C.

47. In view of the abovementioned facts and the evidences, this Court finds and holds that the prosecution has failed to prove the charge Under Section 304 B IPC but succeeded to establish the case under Section 498 A and 306 IPC beyond reasonable doubt. Accordingly, the accused Vishal Kumar is **held and found guilty under Sections 498 A and 306 of the Indian Penal Code, 1860.**

ORDER

48. Consequently, Accused Vishal Kumar is Acquitted for the offence under Section 304 B of the Indian Penal Code, 1860.

Further, the Accused Vishal Kumar is convicted for the offences under Sections 498 A and 306 of the Indian Penal Code, 1860.

A copy of this judgment be sent to District Magistrate, Bhojpur.

A free copy of the judgment be furnished.

Case be listed for sentencing.

Given under the hand and seal of this Court.

This judgment has been corrected, signed and pronounced by me on **13th March, 2026** in open court.

Dictated

(Sri Manoranjan Kumar Jha)

Addl.Sessions judge-IVth

Bhojpur at Ara.

Dated- 13th March, 2026

(Sri Manoranjan Kumar Jha)

Addl.Sessions judge-IVth

Bhojpur at Ara.

Dated- 13th March, 2026

On 18.03.2026 :

HEARING ON THE QUESTION OF SENTENCE

Convict Vishal Kumar has been produced physically from jail. Record is fixed for hearing on sentence.

Heard the Convict, the Learned Advocates for the Convict and the Learned Addl. Public Prosecutor on the question of sentence.

It is submitted by the counsel of the convict that the convict is a poor person and is a first time offender. Further submitted that the convict is sole bread earner of the family and he has old parents who are wholly dependent on him. It is also submitted that the convict is of tender age about 22 years and he had married with the deceased out of love. It is submitted that, thus considering the poverty, age and family, and first time offence of the convict, he may be leniently dealt with.

On the other hand the learned Public Prosecutor submitted that the convict deserve deterrent punishment as the offence committed by convicts is heinous in nature. Hence, the learned Public Prosecutor submitted that exemplary punishment should be given to the convict which would have deterrent effect in the society.

After hearing both the sides on the question of sentence and upon careful consideration of the nature and gravity of the offence, this Court finds that the act committed by the convict is of serious nature. Therefore, this Court is of the considered view that a sentence under **Sections 498 A and 306 of the IPC** is warranted to meet the ends of justice.

The Convict Vishal Kumar is sentenced :

- I. **Under Section 498 A of the Indian Penal Code, 1860** A Simple imprisonment of 3 years and a fine of Rs.5,000/- and in default of fine, the Accused will undergo **additional Six Months** of simple imprisonment.
- II. **Under Section 306 of the Indian Penal Code, 1860** A rigorous imprisonment of 3 years and a fine of Rs.5,000/- and in default of fine, the Accused will undergo **additional Six Months** of simple imprisonment.

The sentences to run **concurrently**. The period of detention in custody of the convict to be set off.

It is further ordered that the fine imposed on the convict be paid to the family of victim/deceased.

The sentence is pronounced in the open Court today on this the 27th January, 2026 given under my hand and seal of the Court.

Send extract of this order to the District Magistrate, Ara for information.

Typed & corrected by me.

Sri Manoranjan Kumar Jha)
Addl.Sessions judge-IVth
Bhojpur at Ara.
Dated- 18th March, 2026

Annexure-A**Prosecution witnesses**

PW-1	Aklu Mahto
PW-2	Urmila Devi
PW-3	Rakesh Kumar
PW-4	Aditi Kumari
PW-5	Dr. Kripa Shankar Choubey

Documentary Evidence of prosecution

P-1	Signature of PW-4 I.O. on Charge-sheet
P-2	Post mortem Report of deceased prepared by PW-5

Defence witnesses :-

DW-1	Dharmendra Yadav
DW-2	Lal Babu Yadav

Documentary Evidence of defence :-

Ext A	Suicide Note
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